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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA., S.J.



**UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHAEL R. ALLEN,

Plaintiff,

v.

J. CRAIG HAMILTON, JR., individually and as
Trustee of PLEXCO TRUST, JOHN D. FARRALD, as
Trustee of PLEXCO TRUST, PLEXCO TRUST, a
California Trust, JRL PROPERTIES, INC., a Texas
corporation, and DOES 1-10, Inclusive,

Defendants.

Case No. C07-03382-PVT

**NOTICE OF MOTION AND MOTION FOR REMAND
OF CASE TO CALIFORNIA STATE COURT AND FOR
ATTORNEY'S FEES AND COTS FOR IMPROVIDENT
REMOVAL**

Date: September 18, 2007

Time: 10:00 a.m.

Judge: The Honorable Magistrate

Patricia V. Trumbull

Courtroom 5, Fourth Floor

TO: DEFENDANTS, J. CRAIG HAMILTON, JR., individually and as Trustee of PLEXCO TRUST,
JOHN D. FARRALD, as Trustee of PLEXCO TRUST, PLEXCO TRUST, a California Trust, JRL PROPERTIES,
INC., a Texas corporation, and DOES 1-10, Inclusive, AND TO THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on September 18, 2007, at the hour
of 10:00 a.m., or as soon as counsel can be heard, in the Courtroom of the Honorable Magistrate
Patricia V. Trumbull, Courtroom 5, Fourth Floor, Plaintiff will move the Court, and hereby does move
the Court for an ORDER remanding the case to the Superior Court of California for the County of
Monterey and for attorney's fees and costs incurred for the improvident removal of the case by the
Defendants.

1 FURTHER, at said time and place, Plaintiff will move, and does move the Court for an ORDER
2 imposing reasonable attorney's fees and costs against Defendants, and each of them, for
3 improvident removal of this case to the Federal Court.
4

5 Said Motion will be made and based upon the fact that the pleadings reveal no federal
6 jurisdiction nor any federal question, and is further based upon the Points and Authorities submitted
7 concurrently herewith, the papers, records, documents and things on file herein, and upon such
8 other and further matters, oral and documentary, as shall properly come before this Court on hearing
9 this Motion.

10 Dated: July 25, 2007

GERSTL & HUDSON

11 By 
12 _____

J.A. HUDSON

13 By 
14 _____

HUGO N. GERSTL

PROOF OF SERVICE

State of California, County of Monterey:

I am employed in the county referenced above. I am over the age of eighteen years and not a party to this action. My business address is 2460 Garden Road, Suite C, Monterey, CA 93940.

On the date given below, I served **Notice of Motion and Motion for Remand of Case to California State Court and for Attorneys' Fees and Costs for Improvident Removal** to the following party(s):

David T. Biderman, Esq.
Lisa D. Olle, Esq.
Perkins, Coile, LLP
Four Embarcadero Center, Suite 2400
San Francisco, CA 94111

By:

- ☒ Mail: Being familiar with the regular mail processing practices of Law Offices of Gerstl & Hudson, where outgoing mail is collected and deposited daily with the United States Postal Service during the ordinary course of business. I sealed the document(s) referred to above into an envelope with postage prepaid, addressed as above.
- ☐ Facsimile Transmission: I caused the document(s) referred above to be transmitted to the following fax telephone numbers. **See above.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 25, 2007



Colleen M. Flores, Declarant